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SUBJECT: GOR STILL FEELING ITS WAY ON TAXING FOREIGN GRANTS

REF: MOSCOW 1909

Classified By: Acting Political Minister Counselor David Kostelancik; reason 1.4 (b) and (d)

¶1. (SBU) Summary: The Ministry of Finance has sent a letter to Premier Vladimir Putin identifying the criteria and procedures for including foreign non-commercial organizations on a list of grantors whose grants are exempt from income taxation for Russian recipients. The proposal was hardly a consensus document and contains many provisions such as only a one-year validity for government decrees approving an organization's inclusion on the list and a key role for the current inter-ministerial Commission on International Humanitarian and Technical Assistance (CIHTA). We have addressed the MFA about the possibility of USAID's inclusion on the list and will continue to follow up with the ministry on the feasibility of USAID submitting an application. End Summary.

¶2. (SBU) On October 6, Minister of Finance Aleksey Kudrin sent a letter to Russian Premier Vladimir Putin containing the criteria and procedures for including foreign non-commercial organizations on a list of grantors whose grants are exempt from income taxation for their Russian recipients. Putin had called for the Ministry of Finance to develop these criteria and procedures, in cooperation with other ministries, pursuant to his decree number 485 dated June 28, 2008 (reftel). According to the letter, such foreign grant making organizations must be "non-commercial" entities and the grants should be provided for implementing specific projects in the fields of science, education, arts, culture, public health care, environmental protection, the provision of social services to low income and vulnerable population groups and for carrying out specific scientific research. (Note: Ideally this list of areas should track a similar list codified in Article 251 of the tax code. Whether by design or poor drafting, the list in Kudrin's letter notably leaves out any reference human rights, an area specifically included in the tax code provisions, as one of the acceptable areas for grants. End Note). The letter went on to add that such projects should correspond to the national interests of the Russian Federation in the fields of education, arts, culture, science and health care, and must comply with the international covenants and legislation of the Russian Federation.

¶3. (SBU) According to the October 6 Ministry of Finance proposal, the foreign organization must apply to be included on the list of grantors whose grants are tax-exempt to their Russian recipients. The grantor's application must contain the following information:

- full official name of the organization;
- type of organization (according to its basic, founding documents);
- identities of the founders of the organization, the date

it was founded, and the goals and purposes it pursues;

- purpose of the grants;
- information regarding the amount of the grant;
- lists of grantees over the last three years (in those cases in which there are many recipients, the general number of grants can be provided); and
- a program of philanthropic activities and other materials confirming the intention of the grantor to support science, education, culture, arts and health care in the Russian Federation.

14. (SBU) The letter proposed a Byzantine process for approval of applications for inclusion on the list of tax-exempt grantors. GOR ministries dealing with science and technological development, education, culture, arts and health care must first review every application. If it decides in favor of the application, it will prepare a draft government resolution that must then be confirmed by an interagency group consisting of the Ministry of Finance, Ministry of Justice, the Federal Security Service (FSB), the Foreign Intelligence Service (SVR), and the Ministry of Internal Affairs (MVD). After the draft resolution is confirmed by this interagency group, it is forwarded to the existing inter-ministerial Commission on International Humanitarian and Technical Assistance (CIHTA) for a final review. The decision to include an organization on the list of tax-exempt donors is only valid for one year.

15. (SBU) The consultations leading up to the criteria and procedure set out in the Kudrin letter were not without controversy. In a letter to the Ministry of Finance, the Ministry of Education had proposed extending the term of the government's resolutions approving an organization's inclusion on the list to two years (vice the current proposal of only one year). In addition, the Ministry of Economic Development had argued that government's decision approving an application should not have to undergo a final review by the CIHTA. CIHTA was created to vet technical assistance development projects implemented in Russia to determine if they merited tax-exempt status, a process quite distinct from the grant list mechanism. CIHTA has come under criticism for having become too bureaucratic and ill-equipped to handle the technical assistance task. The Ministry of Economic Development protest mentioned in the Kudrin letter against tasking CIHTA with this new responsibility for vetting candidates for the grant list likely stemmed from a fear that this will confuse CIHTA's mandate and lead to further delays on both the grant list and technical assistance vetting processes.

16. (SBU) If past practice is a guide, an organization applying for inclusion on the donor list first submits an application to the ministry responsible for the organization's area of activity. The procedure set out in Kudrin's letter provides that if an application is denied, the federal agency that submitted it to the GOR shall notify the organization of the decision. The Ministry of Education and the Ministry of Health have assured one of USAID's implementing partners that they will be accepting applications from foreign non-commercial organizations and submitting them to the GOR for approval once they receive the final version of the criteria and procedures.

USAID Considering Inclusion on the List

17. (C) Poloff and USAID's legal advisor met October 24 with Vyacheslav Moshkalo, Senior Counselor for Economic Affairs at the MFA's North America Department to discuss USAID programming in Russia and the possibility of USAID becoming registered as a tax-exempt foreign donor. Moshkalo was generally receptive at the start of the meeting, saying that with its excellent history of performance here in Russia, USAID should not have any problem in getting registered.

When the discussion turned to the mechanics of registration and our suggestion that the MFA might act as the "sponsoring" ministry for a USAID application to be included on the donor list, Moshkalo became less sanguine. Moshkalo promised to discuss this issue with his superiors and with representatives of the MFA's Department for Economic Cooperation which he said had primary responsibility for monitoring assistance programs on behalf of the MFA. We also suggested he speak with representatives of the International Organization Department, with whom USAID already has a relationship and one of whose division chiefs, Victor Zagrekov, is the point person on the CIHTA working group -- the official MFA designee to CIHTA is Deputy Foreign Minister Aleksandr Yakovenko. (Septel to report Ambassador's October 28 meeting with Yakovenko).

Comment

18. (C) USAID is not the only USG grantor that could be affected if Putin's decree leads to taxing foreign grants to Russian entities. We have learned that the Ministry of Finance ruled in mid-October that the USG-supported International Science and Technology Center (ISTC) is subject to Decree 485 and that in January 2009, the grants it receives from foreign sources will be taxed unless the foreign organization is on the list of tax-exempt grantors. Questions remain about the purpose of Putin's June 28 decree.

The absence of any language about grants supporting human rights and democratization and his visceral reference, first at the "For Putin" rally in November 2007 and again in his last press conference as Russia's president in February 2008, about non-governmental organizations that "sniff like jackals outside of foreign embassies seeking money," may yet be another attempt to tighten the screws on this aspect of civil society.

BEYRLE